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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,916	12/06/2001	Ted Alspach	07844-514001	6109

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EXAMINER

JONES, HUGH M

ART UNIT

PAPER NUMBER

2128

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,916

Applicant(s)

ALSPACH, TED

Examiner

Hugh Jones

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29, 31, 33-36, 48, 50, 52-55 and 67-71 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 29, 31, 33-36, 48, 50, 52-55, 67-71 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 29, 31, 33-36, 48, 50, 52-55, 67-71 of U. S. Application 10/010,916, filed 12/06/2001 are presented for examination. Claims 33 and 52 are objected to. Patentable material in the specification is indicated.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 29, 31, 34-36, 48, 50, 53-55, 67-71 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Knoll (reviewed by Andrew Balis).

4. Knoll discloses vector based interactive software for creating various lens flares and which can be used in such applications as Photoshop and similar image editing applications. The user can edit the all the elements of the flare, brightness, scale, color, angle, location layer via a GUI (page 3). Especially note pages 3-4.

5. Claims 29, 31, 34-36, 48, 50, 53-55, 67-71 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by *Optical Light Effects* "OLE" (author unknown, part of the software called *Maya*).

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6. OLE discloses on pages 8-10 properties of lens flares that can be interactively edited by the user. These properties include color and brightness (pg. 8); location (pg. 8); shape, size, sharpness and number of elements (pg. 9-10); spread length and spread direction (pp. 9-10), color, color range, brightness (pg. 9); lens flare location (pg. 9).

Allowable Subject Matter

7. Claims 33, 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following passages in the specification relate to patentable material and would be allowed if incorporated into claim 29:

- The last sentence of the third full paragraph on page 4 (random generation);
- The first full paragraph of page 7.

Response to Arguments

9. Applicant's arguments, filed 5/1/2006 have been carefully studied, but are not persuasive.

10. The 112 rejections are withdrawn in view of the amendment.

11. The screen shot of the Knoll software demonstrates that it is interactive. Applicants argue that Balis does not recite the words "flare ring", "flare ray", or "halo". Balis (Knoll) discloses vector based interactive software for creating

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various lens flares and which can be used in such applications as Photoshop and similar image editing applications. The user can edit the all the elements of the flare, brightness, scale, color, angle, location layer via a GUI (page 3). Especially note pages 3-4. It is inherent that a flare has the features represented by the words.

12. Applicants argue that OLE does not disclose an interactive feature.

Applicants are referred to the screen shot that is included in their response. As per "visually rendered shapes", this is a broad phrase and appears to be inherent in rendering software such as disclosed by the art.

13. The claimed invention appears to be an interactive procedure for creating various flares in photo editing applications. The prior art of record discloses these features. Applicants have made no arguments to distinguish their claimed invention over the prior art of record.

14. Any inquiry concerning this communication or earlier communications from the examiner should be:

directed to: Dr. Hugh Jones telephone number (571) 272-3781,

Monday-Thursday 0830 to 0700 ET,

or

the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

mailed to:

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051 (for formal communications intended for entry)

or (703) 308-1396 (for informal or draft communications, please label
PROPOSED or *DRAFT*).

Dr. Hugh Jones

Primary Patent Examiner

January 20, 2006

HUGH JONES Ph.D.
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 4100